



# NORFOLK

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The Honorable Mayor Paul D. Fraim  
The Honorable Anthony L. Burfoot  
The Honorable Andrew A. Protogyrou  
The Honorable Paul R. Riddick  
The Honorable Theresa W. Whibley  
The Honorable Angelia M. Williams  
The Honorable Barclay C. Winn

January 25, 2012

Ladies and Gentlemen:

The recent revelation that a member of this council is being sued by the federal government has brought citizens to me demanding some response from this council.

In seeking advice and considering courses of action, I had informal conversations with colleagues. I was told this council does not have the power or process to act, or even sanction, in this situation. Such advice was disappointing and disheartening. As a new member to council, I attended yesterday's meeting hoping for guidance from seasoned leaders. What I experienced was an awkward silence, as not a word was said, neither about the situation nor the fact that the newspaper of record for Norfolk had called for the resignation of one of our members.

In considering all that I had been told and witnessed, I asked myself a basic question: What is our oath of office for this council?

It is to "...support the Constitution of the United States, and the Constitution of the Commonwealth of Virginia...."

Our Commonwealth's Constitution states, "*That no free government, nor the blessings of liberty, can be preserved to any people, but by a firm adherence to justice, moderation, temperance, frugality, and virtue; by frequent recurrence to fundamental principles; and by the recognition by all citizens that they have duties as well as rights, and that such rights cannot be enjoyed save in a society where law is respected and due process is observed.*" (Article 1, Section 15)

This passage is a powerful statement of commitment to ideals and respect for the law. It also affirms the importance of due process.

If we do not have due process for this situation, and apparently we do not, then we should be about the work of addressing the situation and in so doing, develop process. This council faces a situation where one of our members may be in violation of our oath of office. By reason of documents filed in federal court and records maintained by the Commissioner of Revenue in our city, one of our members may have not respected the values of this Commonwealth nor followed the laws of our nation, state or city.

Since our oath of office is part of our Commonwealth's Constitution, should we begin, at least, by asking the Commonwealth's Attorney for advice?

I also think the time has come for the Norfolk City Council, those members of the Virginia Legislature who represent the City of Norfolk and the citizens of Norfolk to begin a dialogue regarding a change in the Norfolk City Charter or the creation of a state law, similar to one passed in our neighboring state of North Carolina, to more specifically define ethical behavior for locally elected and appointed officials.

Respectfully,

A handwritten signature in black ink, reading "Thomas R. Smigiel Jr." with a stylized, cursive script.

Thomas Smigiel, Jr.  
Norfolk City Councilman, Ward 5

cc: Mr. Bernard A. Pishko, City Attorney  
Mr. R. Breckenridge Daughtrey, City Clerk